



Appraisers Faulting Pressure to Inflate Value

by Jenni Bergal

In an ideal world, real estate appraisers are supposed to provide an independent opinion of a home's value, without interference from lenders or real estate agents, but a vocal and growing number of appraisers nationwide, say that's not the way things are working.

A national grass-roots petition on the Internet signed by more than 6,000 appraisers claims that mortgage lenders and real estate agents increasingly put pressure on them to artificially inflate the value of homes – an ethical and licensing violation for appraisers – so that deals can be closed. The petition, which is being sent to state and federal regulators, demands that lenders be held responsible for putting undue pressure on appraisers.

So does a bill sponsored by an Illinois congresswoman and supported by appraiser's groups such as the Appraisal Institute. The bill would establish penalties against lenders who coerce or intimidate appraisers into changing their valuation of real estate. And in Florida, the Real Estate Appraisal Board is proposing legislation that would make it a second-degree misdemeanor to put such pressure on appraisers.

The petition signers said that if they refuse to raise values or guarantee a predetermined amount, many won't be rehired, or they won't get paid if they don't come up with a number the lender wants. Honest appraisers are blacklisted and 'rubber stamp' appraisers are used in their place, the petition alleges. Appraisers say this pressure occurs because lenders and real estate agents, who are paid on commission, want to make sure that a deal doesn't collapse. That can happen if the appraiser comes in too low, forcing the buyer to come up with more cash than he can afford.

values that really aren't right for the owner, just to help the mortgage broker make the deal work," said JoAnne Glantz, an appraiser who signed the petition. Glantz said that while most of the lenders she works with now don't cross the line, in the past she has been hired by "numerous companies" that have dumped her because she won't agree to inappropriately increase the value of the home. "They don't like the result, they throw it in the garbage, and hire someone else to do a new one that they like. You can make more money as a crooked appraiser than as an honest one."

Glantz and other appraisers warn that when a home's value is artificially inflated, the homebuyer ends up the loser. He might have a home that isn't worth what he bought it for. Or if he needs to sell the house in a year or two, he might not be able to sell it for what he owes on it. "It is a major, big-time problem," said Sam Blackburn, president of the AARO. About 82,000 real estate appraisers work in the United States, the majority of whom concentrate on residential properties, Blackburn said.

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"We're under pressure all the time to bring homes in for

Appraisers Faulting Pressure

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Appraisers study a home's sales history and inspect and measure the property, evaluating its condition, both inside and out. They also compare it with similar properties in the market area that have been sold or are listed or under contract, to determine its value.

Appraisers, who are hired by lenders such as mortgage brokers or loan officers, charge a flat fee for their services, usually about \$275-\$300. A set of national uniform standards prohibits them from accepting compensation to report a predetermined value or change the value to favor a client, it's up to the individual states to discipline appraisers who violate those standards.

Appraisers say they are pressured by some lenders and real estate agents, who work on commission and need to get the loan closed quickly. Lenders will make a loan based only on the appraised value or the sales price of a home, whichever is less.

Mortgage brokers and real estate agents have very strong lobbying groups. They make sure there are no safeguards built in, Blackburn said.

Mortgage brokers, bankers and real estate agents agree that appraisers shouldn't face coercion and say they want to ensure it doesn't occur.

"We cannot condone any pressure on any professional involved in the mortgage process to go against their professional standards," said Joseph L. Falk, president of the National Association of Mortgage Brokers. "No one should place undue coercion or burden on the appraisers. That corrupts the system." Falk, points out, however, that there's nothing wrong with lenders questioning appraisers about their work or their numbers, which is common practice.

Falk said he has not heard about any inappropriate pressure on appraisers to come up with a certain value or risk being blackballed. But he said he would work with

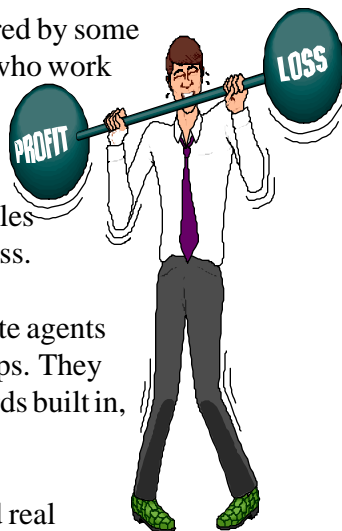
appraiser's groups to seek solutions "if there is a perceived problem."

Joseph Pigg, senior counsel for the American Bankers Association in Washington, said the banking industry supports efforts to make sure appraisers are not being pressured to inflate rates. "This doesn't serve the bank. If the property is not worth what it's being claimed it's worth and you loan money on that, there may not be the security to back up the loan."

Isolated Cases? Pigg said that while many traditional banks hold onto loans, mortgage brokers are middlemen who look for lenders to fund the loan, then wash their hands of it. The brokers now represent about 70% of the mortgage loan business nationwide according to federal statistics. Pigg said for mortgage brokers it may be in their best interest to inflate the value as much as possible: because they are paid a commission based on the size of the loan.

The appraisers allege that the same is true with real estate agents, but Cathy Whatley, first vice president of the National Association of REALTORS®, said her group does not condone any of its members putting undue pressure on appraisers. "In every type of business, you will have isolated instances where there will be complaints. I don't think it's a pattern." Whatley noted that in some areas, buyers are ready and willing to pay more than the appraised value because it's a hot real estate market and there is little available property. She said that although real estate agents might ask appraisers to re-evaluate their figures or disagree with the results, in the end, it's the appraiser's decision and they accept it. "From a REALTOR® side, it is not about commission, it is about serving customers and clients."

Complaint Letters Sam Blackburn (president of AARO) said dishonest appraisers inflate a home's value by using comparable values that are inappropriate, such as those from a different neighborhood, or fail to make proper adjustments for location and size. "It's easy to catch them. But there has to be a complaint first, before a regulatory board will go after them, and the mortgage companies and banks and real estate agents aren't going to turn anybody in." He noted that many complaints to regulators end up coming from homebuyers. "We hear



from them after they have kept the house for six months or a year, then get divorced or change a job and have to sell and they can't get nearly what they paid for it. They end up selling at a loss, and often they are forced into foreclosure or bankruptcy."

Buddy Johnson, director of the Florida Division of Real Estate, said the state regulatory board that oversees the licensing of the state's 7,237 appraisers has received complaints from appraisers about undue pressure from lenders. He said he did not have statistics on the exact number, however.

Patricia Birch, chairwoman of the Florida Real Estate Appraisal Board, said the panel gets at least one such complaint letter every other month, and said she hears many more complaints at appraisers' meetings. She also said the state does not break out the number of disciplinary actions taken against appraisers for falsifying home values because of lender pressure. In the fiscal year ending in June 2001, the state received 305 complaints against appraisers for activities ranging from violating board rules to using fraud or deceit in their profession. "When there has been an obvious attempt by an appraiser to become part of a fraud scheme, the board takes it very seriously," Birch said.

James Venney, a Miami appraiser, said he feels lender pressure at least once a week, particularly from mortgage brokers. Venney said he has lost 12-15 mortgage broker clients over the past five years because he has refused to cave in. "I'm not willing to jeopardize my license," said Venney, "so they go find someone else."

Robert Ipock, the first appraiser in the country to sign the online grass-roots petition, which was put together by several appraisers, states, "it's a major issue because the honest, ethical, competent appraiser is going by the wayside due to lender pressure" said Ipock, from Gastonia, NC. Ipock and other appraisers admit that some of their colleagues are also to blame, because they are willing to violate their own ethics to get the work. "Certainly, we need to clean up the appraisal industry, there is no excuse for an appraiser to bow to this type of pressure."

Printed with permission from the South Florida Sun Sentinel, August 26, 2001

Changing Requirements For USPAP Course Attendance

[These rules have been formally proposed but are not yet adopted. They are provided in order for appraisers to anticipate their educational requirements and plan accordingly.]

The Appraisal Qualifications Board has developed new requirements for USPAP training courses. Beginning January 1, 2003, all individuals seeking initial licensure or certification must take the new 15-hour National USPAP Course as part of their requirements to become licensed and/or certified. *

Until December 31, 2002, individuals seeking initial licensure or certification may take *either* the 15-hour National USPAP Course or any 15-hour USPAP Course.

Until December 31, 2003 all existing licensed or certified appraisers may, in order to fulfill the third renewal period requirement, take either the 15-hour National USPAP Course, the 7-hour National USPAP Update Course, or any other 15-hour USPAP course to fulfill the third renewal period requirement.

Beginning January 1, 2004 all existing licensed or certified appraisers will have to successfully complete a 7-hour National USPAP Update Course, at least once every renewal cycle. *

Each course cited above must include passing a final exam, except for the 7 hour update (the AQB will likely require an exam for this course in the near future).

In summary: 2002

New Licensed/Certified appraisers:

The current two-day 15-hour USPAP course, or, the 15-hour National USPAP course are required for all new licensed/certified appraisers. Passing either course must include successful completion of exam.

Renewal of Existing Licensed/Certified appraisers:

All appraisers in their third renewal period (5th and 6th year since the last USPAP class), may take either the 15-hour National USPAP Course,

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Utah Agency Targets Inflated Appraisals

By Lesley Mitchell
Salt Lake Tribune staff reporter

No renovations or additions had been made to the upscale Utah County home, but that didn't stop a Payson appraiser from setting its value at \$360,000 -- \$70,000 more than he had said the property was worth just three months earlier

The appraiser, who ultimately agreed to pay \$2,500 in fines stemming from problems with his work, is among 15 who faced disciplinary actions by the Utah Division of Real Estate in the first quarter ended March 31. If the current pace of disciplinary actions continues, the number for all of 2002 could easily top the 23 actions taken in 2001.

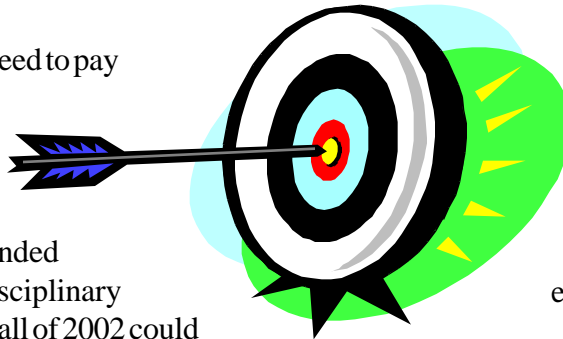
Realtors say the disciplinary actions, which typically result in fines of \$1,000 to \$3,500, represent only a fraction of the unethical behavior and inaccurate work occurring in the industry. Their concerns have led to an aggressive campaign by Dexter Bell, director of the real estate agency, to rein in rogue appraisers.

Realtors hope the division's efforts will help make appraisals more useful to consumers, who pay \$300 to \$400 for estimates of the value of homes they own or want to buy. Value is determined by factors such as a property's age, condition, location and comparable sales in the area.

"People get an appraisal and expect it to provide a reasonable idea of what their home is worth, but most of the time their home is simply appraised at too high of a value," said John Harr Jr., Utah Association of Realtors president. "Many times, there's simply no way we could sell a home at the appraised price."

Inflated appraisals are troubling, given the important role the state's approximately 1,000 appraisers play in real estate transactions. Appraisers are hired by mortgage companies to make sure that the sales price agreed upon by the seller and buyer of a property is reasonable and that

the property is in acceptable condition. They also are hired to determine value when homeowners refinance their properties or take out home equity loans. In either case, the appraisals are designed to ensure the homeowner or buyer does not borrow more than the property is worth. Those in the industry say a rise in inflated appraisals can be explained by the state's sluggish real estate market.



In the early to mid-1990s, the value of homes in many parts of the Salt Lake Valley rose 5% to 20% each year. With such huge increases, there was no pressure on appraisers to inflate value.

But today many homes are appreciating at only 1% - 2% a year, if at all.

At the same time, demand among homeowners to use the equity in their homes to pay down debt or make major purchases has grown, leading to an increase in second mortgages. The higher the appraisals, the more homeowners can borrow, leading some unscrupulous lenders to pressure appraisers to inflate estimates so that loan clients can borrow more.

The problem is that many of these debt-laden homeowners subsequently owe more than their homes are worth when they try to sell.

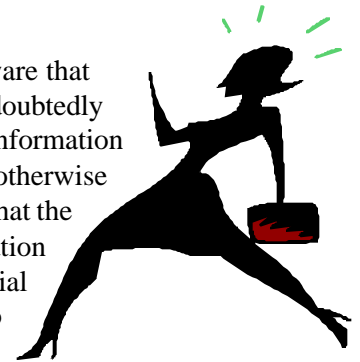
A homeowner who can sell his or her home for \$230,000, for example, but owes a total of \$260,000 in first and second mortgages, will have to pay \$30,000 in cash to their mortgage company at closing. They also will have to pay in cash their portion of the closing costs and real estate agent commissions.

Bell said inflated appraisals create a vicious cycle. Buyers who owe more than their home is worth often press Realtors to get the highest possible price for their home. Agents, in turn, may pressure appraisers to come up with

continued next page

Identity Theft

In a recent identity theft investigation, the Utah Division of Consumer Protection became aware that suspects are obtaining personal information from dumpsters behind businesses. While this has undoubtedly been occurring for some time, it is worth noting that the particular suspects in this case were using information obtained from a mortgage company. Apparently the mortgage company failed to shred or otherwise destroy documents containing personal information of mortgage lessees. The suspects stated that the records they obtained in the dumpster had names, addresses, dates of birth, bank account information (including names of financial institutions, account numbers, and account holder information), social security numbers, residence and mortgage history, etc. This information enabled the suspects to easily obtain credit cards via the Internet, which were then used by the suspects to purchase goods and/or services.



Appraisers: most of you do your business through mortgage companies. Please be aware that this is happening frequently! You owe it to your clients to protect their information. Check with the companies you work with to make certain personal records are not being dumped without being destroyed. It is the duty of all of us to prevent this type of crime from continuing to expand. Certainly we would not like to see additional losses to the organizations, nor would we like to see the individuals whose information is stolen deal with this type of tragedy.

Special thanks to the Utah Division of Consumer Protection.

Utah Agency . . . *continued*

an inflated value. Then, if they are lucky enough to find someone to buy the house, that person is stuck with property for which he or she paid too much, and the cycle begins again.

"Because homes aren't appreciating, there's more and more pressure on appraisers to come up with a value to make a loan work," said Scott Irvine, a Murray appraiser. "I just won't do it. It's not worth losing my license over one home."

But other appraisers have been willing to take that risk.

A Clearfield appraiser, for example, agreed to pay a \$1,500 fine earlier this year after valuing a home at \$121,000. The appraisal order stated, "Please get \$120,000."

Disciplinary actions regarding appraisers—including names and details of what issues led to fines and other sanctions -- can be obtained from the Division of Real Estate at (801) 530-6747. *

Printed by permission from the Salt Lake Tribune, April 25, 2002.

* This information is available on our website. The address is: www.commerce.utah.gov/dre. This will take you to our home page. Put the arrow on 'services,' then select 'newsletters.' You can then view the disciplinary sanctions as they appeared in past newsletters.

No Seals for Licensed Appraisers

Apparently some State Licensed Appraisers are using seals. Utah State Rule 162-106.3.2 states: "State-Licensed Appraisers. State-Licensed appraisers **may not** place a seal on an appraisal report or use a seal in any other manner likely to create the impression that the appraiser is a state-certified appraiser."

(bold added for emphasis)

Appraiser Disciplinary Sanctions



BAIRD, CHAD O., State-Licensed Appraiser, Provo. Agreed to pay a \$1,000 fine and not to sit for the certification exam for at least one year in settlement of a complaint involving an appraisal he did while he was a registered appraiser. The complaint alleged that the subject property, which Mr. Baird called an above-grade rambler, was a “basement home.” The complaint further alleged that the report was misleading because it stated that the site had no apparent adverse conditions when the site actually sloped uphill toward an irrigation canal and a trickle of water ran downhill through the site from the canal. Mr. Baird admitted that judgment errors were made during the appraisal process and that there were some inconsistencies in the report, which therefore violated USPAP. #AP01-03-07.

BEXELL, STEVEN C., State-Certified Residential Appraiser, Ogden, Utah. In settlement of complaints involving three appraisals, Mr. Bexell agreed to pay a \$3,000 fine and to successfully complete a minimum 16 hour course on the appraisal of small residential income properties. The Division alleged that in two of the reports, Mr. Bexell failed to correct errors and omissions made by a junior appraiser whom he supervised, and that in the third report he made errors and omissions related to the utilization of rental and sales data from an area different from the subject. In mitigation, two of the reports were completed approximately five years ago and Mr. Bexell has completed 59 hours of continuing education since April, 1999. #AP99-08-08.

FILLMORE, MURLEEN W., Salt Lake City. Amended Cease and Desist Order issued January 4, 2002 prohibiting Ms. Fillmore from acting as an appraiser for compensation with respect to Utah properties without an appraiser license or certification, including testifying in any official proceeding before a county board of equalization or the Utah State Tax Commission. #AP01-11-02.

FITCH, BRADFORD C., State-Certified Residential Appraiser, Sandy. In settlement of three cases, Mr. Fitch agreed not to supervise or sign for any other appraisers, or to supervise unclassified appraisers earning points for licensure, for two years beginning June 26, 2002. He also agreed to pay a \$3,500 fine and complete a USPAP course. Mr. Fitch violated USPAP by failing to properly train and supervise three registered appraisers for whom he signed. He specifically denied that he participated in any plan to inflate the valuation on the reports involved in the investigations. #AP98-06-21, #AP01-05-19, and #AP01-10-22.

GRIEVE, THOMAS H., State-Certified Residential Appraiser, Cedar Hills. In lieu of continuing to respond to the Division’s investigation of complaints, Mr. Grieve surrendered his appraiser certification effective March 27, 2002, and agreed not to apply for a new appraiser license or certification for a minimum of five years. He also agreed that for the same five year period of time, he will not own or manage a company which appraises in Utah, nor will he work for a Utah appraiser as a trainee, unclassified individual earning points for licensure or certification, clerical support staff, or in any other capacity. #AP01-08-39, and #AP01-08-40.

JARNAGIN, SANDRA L., State-Licensed Appraiser, West Valley City. Agreed to pay a \$1,000 fine and not to apply to become certified before July 23, 2003 in settlement of complaints involving errors in two appraisals she performed in early, 1999 soon after becoming a registered appraiser. Ms. Jarnagin maintains in mitigation that her supervising appraiser did not provide her with assistance or training and that he left her on her own to do the two appraisals in question. #AP99-03-05, AP99-11-12, and AP20-04-08

JONES, KENNETH F., Salt Lake City. Cease and Desist Order issued March 25, 2002 prohibiting Mr. Jones from acting as an appraiser for compensation with respect to Utah properties unless and until he obtains a new appraiser license or certification. #AP02-02-01.

OSBURN, FRANKIE L., State-Certified Residential Appraiser, Salt Lake City. Agreed to pay a \$1,000 fine and complete a USPAP course and a small residential income property course in settlement of two complaints in which she admitted that her appraisal reports violated USPAP Standard 1-1A by using improper methods. One complaint involved use of comparable sales outside of the defined neighborhood boundary, failing to adjust for location and failing to use closer available comparables. The other complaint involved use of inconsistent methods. #AP01-08-03, and #AP01-11-27.

PROWELL, KEVIN M., formerly a State-Registered Appraiser, Draper. Agreed to pay a \$2,000 fine and complete a 2002 USPAP course in settlement of two complaints involving failure to disclose a pending or prior sale of subject properties, and a failure to use sales in the same subdivision as a subject property, among other things. #AP99-11-09, and AP01-03-27

USPAP Q & A.

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to state and territory appraisal regulators to inform all states and territories of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. The ASB USPAP Q&A do not constitute a legal opinion of the ASB.

Vol. 4, No. 6 – June 2002

Question 1

I was recently asked to review an appraisal report and limit my review to only the income approach to value. Is such a limitation addeptable?

Response:

Yes. USPAP does not require the reviewer to review the entire report. Standards Rule 3-1(b) states, in part:

- (i) *subject of the appraisal review assignment,*
- (ii) *date of the review,*
- (iii) *property and ownership interest appraised (if any) in the work under review,*
- (iv) *date of the work under review and the effective date of the opinion in the work under review, and*
- (v) *appraiser(s) who completed the work under review, unless the identity was withheld;*

Comment: *The subject of an appraisal review assignment may be all or part of an appraisal report, the workfile, or a combination of these.*

Question 2:

Can an appraisal, appraisal review, or appraisal consulting assignment include more than one intended use?

Response:

Yes. USPAP requires appraisers to identify the “intended use of the appraiser’s opinions and conclusions.” There is no prohibition against having more than one intended use. However, when performing an appraisal, appraisal review, or appraisal consulting assignment with multiple intended uses,

the appraiser must be very careful to clearly identify each of the intended uses of the report to limit the possibility of confusion.

Additionally, the appraiser must comply with all Supplemental Standards that are applicable to the intended uses. The appraiser must also recognize that the scope of work may need to be expanded in order to provide credible results for all of the intended uses.

Question 3:

The term "Supervisory Appraiser" is used in many appraisal reports, particularly residential appraisals. Does USPAP define Supervisory Appraiser?

Response:

No, USPAP does not define or otherwise address this term. Supervisory Appraiser is a term that was introduced by the authors of several heavily utilized residential appraisal forms.

However, it should be noted that any appraiser who signs any part of the appraisal report must also sign the certification.



Vol. 4, No. 5 – May 2002

Question #1

USPAP requires appraisers to include a description of the scope of work in each appraisal report, the detail of which varies by reporting option. Is there a similar requirement for appraisal review reports?

Response:

Yes. Standards Rule 3-2(c), a binding requirement, states that in every appraisal review report the reviewer must “*state the nature, extent, and detail of the review process undertaken (i.e. the scope of work) identified in accordance with Standards Rule 3-1(c).*”

Standards Rule 3-1(c), also a binding requirement, states, in part:

In developing an appraisal review, the reviewer must:

identify the scope of work to be performed;

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USPAP Q.& A.

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Comment: A reviewer must take appropriate steps to identify the precise extent of the review process to be completed in an assignment. A reviewer must have sound reasons in support of the scope-of-work decision, and the resulting opinions and conclusions developed in the assignment must be credible and consistent with the intended use of the review.

In making the scope-of-work decision, the reviewer must identify any extraordinary assumptions necessary in the assignment. An extraordinary assumption may be used in an appraisal review assignment only if:

- *it is required to properly develop credible opinions and conclusions;*
- *the reviewer has a reasonable basis for the extraordinary assumption;*
- *use of the extraordinary assumption results in a credible analysis; and*
- *the reviewer complies with the disclosure requirements set forth in SR 3-2(d) for extraordinary assumptions.*

The appraisal review must be conducted in the context of market conditions as of the effective date of the opinion in the work being reviewed. Information available to the reviewer that could not have been available to the appraiser as of or subsequent to the date of the work being reviewed must not be used by a reviewer in the development of an opinion as to the quality of the work under review.

Question #2

I am an appraiser performing an appraisal, appraisal review, or an appraisal consulting assignment. I am required by law, regulation, agreement, or choice to follow USPAP. Is this still true if I do not charge a fee for my service?

Response:

Yes. The applicability of USPAP is not affected by the amount of the fee, or lack of a fee.

Question #3

A client asked if I would be willing to reduce the fee for appraisals in cases when the loan did not close if the client agreed to pay extra for other assignments. Would this practice be ethical?

Response:

No. The Management section of the ETHICS RULE states, in part,

It is unethical for an appraiser to accept compensation for performing an assignment when it is contingent upon:

5. The occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

As with the other related prohibitions in this section of the ETHICS RULE, such contingencies are not allowed because they can inspire unethical behavior and erode public trust in professional appraisal practice

Vol. 4, No. 4 – April 2002

Question#1

For a real property appraisal, I know that USPAP requires an appraiser to develop a reconciliation of the approaches to value that are used in an assignment. Does USPAP require the appraiser to reconcile the data utilized within each approach to value?

Response:

Yes. Standards Rule 1-5(c), a binding requirement, states, *In developing a real property appraisal, an appraiser must:*

reconcile the quality and quantity of the data available and analyzed within the approaches used and the applicability or suitability of the approaches used.

Question #2

Is the main function of USPAP to protect appraisers?

Response:

No. The first paragraph of the PREAMBLE states:

The purpose of these Standards is to establish requirements for professional appraisal
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Words from the Chief

by Jon R. Brown
Division of Real Estate Chief Investigator

The Division daily receives many questions. Here are two of the most frequently asked.

Question:

Can an appraiser who has prepared an appraisal report for a lender re-certify the report to a different lender, or just do a complete new report if the borrower wants to change lenders?

Answer:

NO. The federal and state standards governing appraiser conduct (USPAP) state that an appraiser may not communicate the appraisal results to anyone other than the client and the people the client specifically authorizes to receive the results.

The URAR Appraisal Report Form asks for the client's name. In most cases the client is the lender, not the borrower, so a duty of confidentiality is owed to the lender whose name is on the Appraisal Report as the client. Even if the lender turned the borrower down, the appraiser is not released from the confidentiality owed to the lender. USPAP states that time alone doesn't determine when the relationship ends. The client relationship lasts until the intended purpose of the assignment has been accomplished. Therefore, even if the loan was declined, it would still require a letter of authorization from the client releasing the appraiser to do an appraisal report for a new lender. But even with that, the appraiser would not be authorized to update the original report. USPAP states that none of the parties in the original report can change if an update is

done, so the first report needs to be treated as one report and the records kept for it in its report file, the second report is not part of the first report, and will require its own file and records. In short, it is not like a failed real estate sale. An appraisal assignment is completed even if the loan is not made, and the appraiser is required to treat it as any other completed assignment.

Question:

Can a mortgage company withhold payment to the appraiser if the value hoped for by the lender, buyer, or seller is not met?



Answer:

NO! One of the ten prohibited acts in the Utah Residential Mortgage Practices Act is that a lender or broker will not attempt to induce an appraiser to reach a value. There are many ways to induce, none more powerful than to withhold the appraiser's fee. Therefore, to avoid a complaint against a lender, mortgage companies should not withhold fees because the value reached by the appraiser is not high enough to make the deal close. The appraiser is not allowed to accept an assignment that calls for a predetermined opinion or conclusion. Even the threat of removing the appraiser from an approved list or withholding future assignments could be construed as an attempt to induce. Mortgage companies should avoid this practice, and appraisers would do well to avoid the mortgage companies that practice this way.

Two Board Members Retiring

The Division of Real Estate owes a huge THANK YOU to Jerry Webber and Tom Anderson. Their terms of service on the Appraiser Licensing and Certification Board expired as of July 1, 2002. They have served long, well, and faithfully, and their influence will be missed. When asked for comments, Jerry said that in the seven years he's been with us, licensing and investigation work have both improved tremendously. Thanks, Jerry, we appreciate that!

Meet the Two New Board Members . . .

The Utah Real Estate Appraiser Licensing and Certification Board welcomes two new members. They are J. Philip Cook and Jennifer Szczypkowski.

J. Philip Cook

J. Philip Cook, MAI, CRE, is President and owner of J. Philip Cook and Associates, Inc. The firm specializes in commercial real estate appraisal and consulting assignments throughout the Intermountain Region. Mr. Cook has 22 years full-time commercial real estate appraising and consulting experience. He earned B.S. and

M.B.A. degrees from the University of Utah and holds General Certified Appraiser status in Utah, Idaho, Wyoming and Montana. He teaches appraisal and ethics courses for the Appraisal Institute and is a former assistant professor adjunct in the David Eccles School of Business at the U. of U. Mr. Cook has served in elected office and board appointments for national, regional and state professional organizations. His real estate experience covers all commercial markets, special use and recreational properties, eminent domain and expert testimony. Mr. Cook has served for a number of years on the Division's Appraiser Technical Advisory Panel

Jennifer Szczypkowski

Jennifer Szczypkowski is a State Licensed Appraiser for the State of Utah. From 1997 to 1999, Jennifer worked independently as an appraiser. Her specialty was appraising Single Family, Multi-Family and Vacant Land properties. Currently, Jennifer is the Manager of the Salt Lake City, Utah, and Hatboro, Pennsylvania Appraisal Departments for Fairbanks Capital Corp.

She manages an operations team of Evaluation Specialists, plans and establishes work assignments and work methods, staffs and trains employees, conducts due diligence on new acquisitions, and plans the appraisal reviews for the acquired portfolio and value of real estate interests. She also analyses data integrity for the group and has helped review investments. Jennifer's focus has been to maintain successful, efficient and profitable operation of each property, as well as to maintain productive relationships with clients and the real estate brokerage community. Jennifer looks forward to serving on this board.

APPRAISERS

We invite you to submit articles for consideration for publication in this newsletter. Articles should address issues of interest to the appraisal industry.

We will review the information submitted and, if appropriate, publish the article in a future edition of the *Appraiser Review*. All articles are subject to editing for length and content. Submitted articles cannot be returned.

Submit articles to:

Mark Fagergren
Utah Division of Real Estate
Box 146711
Salt Lake City UT 84114-6711

You Must Notify the Division -- in Writing --



Within 10 Days of:

- a change of personal address
- a change of business address
- a change of name
- a change of personal telephone number
- a change of business telephone number
- a conviction of a criminal offense
- a filing of bankruptcy

Changing Requirements For USPAP

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the 7-hour National USPAP Update Course (no exam required), or any 15-hour USPAP course, and corresponding successful completion of exam.

01/01/2003 New Licensed/Certified appraisers:

The 15-hour National USPAP Course and passing the exam.

Renewal of Existing Licensed/Certified appraisers:

All appraisers in their third renewal period (5th and 6th year since the last USPAP class), may take either the 15-hour National USPAP Course, the 7-hour National USPAP Update Course (no exam required), or, any 15-hour USPAP course; and corresponding successful completion of exam.

01/01/2004 New Licensed/Certified appraisers:

The 15-hour National USPAP Course and passing exam.

Renewal of Existing Licensed/Certified appraisers:

The 7-hour National USPAP Update Course (AQB will likely require an exam by then).

*Only approved AQB certified instructors may teach this new course. The list of approved instructors may be viewed by going to the Division web site (www.commerce.utah.gov/dre) and then linking to the Appraisal Foundation link — It's under "Headlines" on their home page.)

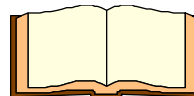
USPAP and Utah Law

It is important for all appraisers to stay current with USPAP. The current edition of USPAP (along with Advisory Opinions and Statements) is always available from the Appraisal Foundation. Their phone number is: (202) 347-7722, and their address is:

The Appraisal Foundation
1029 Vermont Ave N.W. Ste 900
Washington, DC 20005-3517

or you may wish to go to their website: www.appraisalfoundation.org.

The Division of Real Estate printed several copies which are available in our offices at 160 E 300 South, Salt Lake City UT 84111. The cost is \$6.50 is you pick them up, or \$8.50 if we mail them.



It is also important to stay current with Utah Statute and Administrative Rules. You may link to them through our website at: www.commerce.utah.gov/dre. That will take you to the home page of the Division of Real Estate. When you get there select "About Us," and then "Administrative Rules." Or you may purchase copies from the Division.



Utah Real Estate Appraiser Review

Purpose: To provide licensees with the information and education they need to be successful in competently serving the public.

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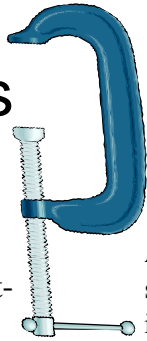
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Div. of Real Estate home page address:
<http://www.commerce.utah.gov/dre>

In Memoriam

The Utah
Division of Real Estate
expresses condolences to the
family of
Don B. Duncan
Utah Certified Residential
Appraiser
who passed away recently

HUD to Clamp Down on Appraisers



HUD says it intends to propose new standards that will hold appraisers accountable for their performance, maintaining that “faulty appraisals too often lead to default and foreclosure.”

The new initiative, called Appraiser Watch, is due to be published soon in the Federal Register. Once implemented, the standards will cover some 25,000 individuals who conduct appraisals on Federal Housing Administration-insured single-family homes.

A HUD statement said, “Faulty appraisals, whether intentional or not, contribute to the inability of home buyers to make monthly mortgage payments and to the instability of neighborhoods. The measure is part of the Administration’s commitment to protect unsuspecting victims, who are often first-time home buyers and minorities.”

Under the proposal, FHA will monitor appraisers’ default and claim rates and will levy sanctions – including removal from its list of approved appraisers – against those whose rates are excessive.

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USPAP Q.& A.

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*practice, which includes appraisal, appraisal review, and appraisal consulting, as defined. The intent of these Standards is to **promote and maintain a high level of public trust** in professional appraisal practice.*

Although the main purpose is not to protect appraisers, appraisers do receive significant benefits and protection from USPAP. It establishes requirements for impartiality, independence, objectivity, and competent performance. Because of these standards, appraisers who comply with USPAP are viewed as unbiased professionals whose work is worthy of public trust.

Question #3:

USPAP requires appraisers to report the scope of work undertaken in each appraisal assignment. The detail required varies by reporting option. Is there a similar requirement for an Appraisal Review assignment?

Response:

Yes. Standards Rule 3-2(c), a binding requirement, states;

In reporting the results of an appraisal review, the reviewer must:

state the nature, extent, and detail of the review process undertaken (i.e., the scope of work) identified in accordance with Standards Rule 3-1(c);

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Question #1

I have been taught that USPAP prohibits all contingent compensation. Is this true?

Response:

No. USPAP does not prohibit all forms of contingent compensation.

USPAP prohibits compensation that is contingent (or dependent) on an unethical act, or acts that would encourage unethical behavior. All fees are contingent on some type of act, such as completing the assignment. Only unethical contingencies are prohibited.

The Conduct section of the ETHICS RULE state, in part:

In appraisal practice, an appraiser must not perform as an advocate for any part or issue . . .

An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.

The Management section states, in part:

It is unethical for an appraiser to accept compensation for performing an assignment when it is contingent upon:

1. *the reporting of a predetermined results(e.g., opinion of value);*
2. *a direction in assignment results that favors the cause of the client;*
3. *the amount of a value opinion;*
4. *the attainment of a stipulated result; or*
5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment purpose.*

Question #2

STATEMENT 8, dealing with the electronic transmission of reports, has been retired. Can reports still be stored in electronic format?

Response:

Yes, reports may still be stored in electronic format. STATEMENT 8 dealt with **transmission**, not with record **storage**. Hence, the retirement of SMT-8 does not affect record keeping requirements.

(Also, note that the retirement of SMT-8 does **not** indicate that electronic transmission of reports is no longer allowed.)

Question#3:

I recently accepted an appraisal assignment for a property that had an easement granted in perpetuity. The property owner was the client. She did not have a copy of the easement and stated that it had never been recorded. What are my development and reporting obligations under USPAP?

Response:

First, you should do what research is possible to see if the easement was recorded and reflect the facts you discover in your analysis. If you cannot confirm the facts, you may use an Extraordinary Assumption in your analysis. The particulars of the Extraordinary Assumption, and its impact on value, must be clearly disclosed.

The definition of an Extraordinary Assumption is:

an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.

*Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical,**legal**, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in the analysis.*

Standards Rule 2-1(c) states, in part:

Each written or oral real property appraisal report must:

(c) clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limited condition that directly affects the appraisal and indicate its impact on value.

The Comment to this Standards Rule states, in part:

In a written report the disclosure is required in conjunction with statements of each opinion or conclusion that is affected.

(All bold added for emphasis)

LICENSING STATISTICS					
2000	RA	LA	CR	CG	TOTAL
June	974	16	485	328	1803
July	947	15	492	327	1781
August	894	17	489	327	1727
September	859	17	490	324	1690
October	826	18	490	321	1655
November	805	18	488	324	1635
December	785	19	492	330	1626
2001					
January	751	19	492	330	1592
February	692	22	498	340	1552
March	649	26	499	340	1514
April	593	38	517	345	1493
May	493	46	541	351	1431
June	0	56	571	355	982
July	0	64	580	355	999
August	0	72	561	337	970
September	0	77	562	337	976
October	0	80	561	335	976
November	0	84	563	340	987
December	0	82	565	341	988
2002					
January	0	83	566	340	989
February	0	86	569	340	995
March	0	86	569	340	995
April	0	86	574	340	1000
May	0	87	579	336	1002
June	0	87	579	335	1001
July	0	86	582	337	1005
August	0	86	580	336	1002
September	0	85	580	340	1005

Utah Division of Real Estate Caravan 2002

Free CE coming to a town near you!!

Meet four of the Division of Real Estate's leaders! The Division Director, Education & Licensing Director, Lead Investigator, and Trust Account Auditor are planning four stops throughout the state to teach and to answer your questions. A total of 5 hours of continuing education credit may be earned - AT NO COST TO YOU! Pre-registration is required in order to receive CE credit.

Please send your registration to the Division early to reserve your seat. Include your name, license number, address, phone number, e-mail address, and the date/city you would like to attend. You may attend both sessions or just one (see schedule below) - please indicate your preference with your registration. You will receive a confirmation of your registration from the Division.

Friday, November 1, 2002 - Logan (Comfort Inn) *

9:00 a.m. - 12 Noon Trust Account Seminar
1:00 p.m. - 3:00 p.m. Division Instruction/Q&A

Tuesday, November 5, 2002 - Richfield (Budget Host/Knights Inn) *

9:00 a.m. - 12 Noon Trust Account Seminar
1:00 p.m. - 3:00 p.m. Division Instruction/Q&A

Wednesday, November 6, 2002 - Cedar City (Willow Glen Inn) *

10:00 a.m. - 12 Noon Division Instruction/Q&A
1:00 p.m. - 4:00 p.m. Trust Account Seminar

Thursday, November 7, 2002 - Price (College of Eastern Utah, Alumni Room) *

10:00 a.m. - 12 Noon Division Instruction/Q&A
1:00 p.m. - 4:00 p.m. Trust Account Seminar

*Please note: The specific locations (within each city) are still tentative. Please **do not** contact the hotels directly for conference information.

Privacy of Information

At the Division of Real Estate we regularly receive requests for lists of appraisers. These requests are usually for information about appraiser's business and/or residence addresses and/or telephone numbers. The policy of the Division is not to reveal personal (residence) addresses and telephone numbers unless they *ARE* the business address and phone number because business addresses and telephone numbers are public information.

For many appraisers, the only data the Division has is the residence information. All new and renewal applications include a request for information on BOTH residence *AND* business. BOTH areas must be completed. If you indicate that your business address and/or telephone information are the same as your residence **THIS INFORMATION WILL BE MADE AVAILABLE TO THE GENERAL PUBLIC.**

If, before your next license renewal, you need to include or change your residence or business information, please submit a signed and dated letter, fax: (801) 530-6749, or email: realestate@utah.gov, with the appropriate information. In order to make these changes to our licensing system, we must have such requests in writing.

**“Be not angry
that you cannot
make others
as you wish them to be,
since you cannot
make yourself
as you wish to be.”**

Thomas A. Kampis

Department of Commerce
Division of Real Estate
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Press Release

The Utah Manufactured Housing Association (UMHA) has announced a new service available to licensed appraisers within the State of Utah. According to Bill Johnson of Vernal, Vice President of the Association, a database of sales information will now be compiled through a reporting system direct to UMHA from the selling Dealers.

As of April 30th of this year, Fannie Mae stiffened their manufactured home appraisal requirements to require that at least two comparable sales be other manufactured homes. Appraisers have indicated to the Association that most new sales originate through Manufactured Home Dealers and this information has been difficult if not impossible for them to obtain. Johnson states that with this new service, up to date sales data will now be available from one source, statewide. "I also foresee Freddie Mac and other secondary market purchasers to follow suit in the near future, making this service even more valuable for the appraiser," Johnson said.

The new service is available to all residential appraisers that include Manufactured Homes in their business for a \$75.00 annual subscription fee to cover the paperwork. Anyone desiring to subscribe or obtaining more information, please contact Bill Johnson at (435) 789-0520 or email at: bjj@easilink.com.

Utah Manufactured Housing Association

